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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,681	12/01/2003	Peter W. Heuell	ELSE-0825/B990064	2365
23377	7590	12/21/2004	EXAMINER	
WOODCOCK WASHBURN LLP ONE LIBERTY PLACE, 46TH FLOOR 1650 MARKET STREET PHILADELPHIA, PA 19103			NGUYEN, VINCENT Q	
			ART UNIT	PAPER NUMBER
			2858	

DATE MAILED: 12/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/724,681	HEUELL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vincent Q Nguyen	2858	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Response 11/24/2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-36 is/are pending in the application.
- 4a) Of the above claim(s) 25-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 28-32, 35, 36, are rejected under 35 U.S.C. 102(b) as being anticipated by Borchardt et al. (4,851,621).

Regarding claim 28, Borchardt et al. discloses an actuator switch comprising (Figure 2) an inner actuator (26, 46) comprises ribs (Compartments on cylinder 46 and the edge of element 26) separated by at least one gap (The gap between slot portion 44 and disk 26); and an outer housing (18, 50) comprises a locking-tab (36), the locking-tab (36) corresponding to the at least one gap for interlocking (See figure 7).

Regarding claim 29, Borchardt et al. discloses the inner actuator (26, 46) is rotatable within the outer housing (18, 50).

Regarding claim 30, Borchardt et al. discloses the actuator has an upper surface comprising a flange (40) having two sides (44).

Regarding claim 31, Borchardt et al. discloses both sides (44) of the flange (40) are flexible to give way to the locking-tab.

Regarding claim 32, Borchardt et al. discloses locking tab (36) comprises a chamfer (The recess above aperture 20).

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Regarding claim 35, Borchardt et al. discloses the inner actuator (26,46) further comprises a plurality of substantially flat flanges (37, 39)

Regarding claim 36, Borchardt et al. discloses the flanges (37, 39) are about 90 degree apart (See figure 8, Column 3, lines 42-43).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borchardt et al. (4,851,621).

Regarding claim 33, Borchardt et al. does not disclose the outer housing further comprises a hex area.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the outer housing as taught by Borchardt et al. comprises a hex area into the system of Borchardt because, the hex area or any other shape for the outer housing of Borchardt et al., does not change the function of the actuator.

5. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Borchardt et al. (4,851,621) in view of Amonett (5,949,038).

Regarding claim 34, Borchardt et al. does not disclose a plurality of cantilevered springs.

Amonett discloses a system similar to that of Borchardt et al. and further discloses (Figure 8) a cantilevered springs (576) for the purpose of enhancing the twist locking (Amonett's column 20, lines 57-67) to permit the actuator operation in spite of contamination (Amonett's column 2, lines 8-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the springs as taught by Amonett into the system of Borchardt because the springs would enhance the twist locking and enhance the operation of the actuator even when it is contaminated.

### ***Response to Arguments***

6. Applicant's arguments filed 11/24/2004 have been fully considered but they are not persuasive.

In response to Applicant's argument that Borchardt describes element 36, which is not a locking-tab, but as a groove which receives the lower portion 39. "The groove 36 in Borchardt does not provide any locking-tab functionality at all. The groove 36 is meant merely to receive, and is not meant to provide a locking function as a locking tab of claim 28 would."

Examiner does not see the why element 36 of Borchardt does not provide any locking-tab functionality? As element 39 is received into element 36, it is locked for freely rotate.

In response to applicant's argument that "Borchardt does not disclose or suggest gaps that are used for interlocking with a locking-tab, as recited by claim 28." it is noted that the features upon which applicant relies (i.e., gaps that are used for interlocking with a locking-tab) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

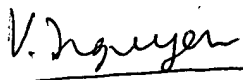
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**Contact Information**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent Q Nguyen whose telephone number is (571) 272-2234. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le can be reached on (571) 272-2233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vincent Q. Nguyen  
Primary Examiner  
Art Unit 2858

August 20, 2004